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October 26, 2009

**BY ECF**

Hon. Joseph F. Bianco  
United States District Judge  
United States District Court  
Eastern District of New York  
100 Federal Plaza  
Central Islip, New York 11722

Re: Stair v. Calhoun, et. al.  
Docket No. 07-cv-3906  
Our File No. 16956.001

Dear Judge Bianco:

This firm represents the plaintiff in the above referenced action. I am the partner in charge of this case. Pursuant to your Honor's Rules, Local Rule 1.4 and DR 2-110 C (1) (d) and (f), I am respectfully requesting permission to file a motion brought on by order to show cause to withdraw as counsel for plaintiff Theodore Stair, to stay the deadline for submission of a joint pre-trial order to afford Mr. Stair the opportunity to obtain substitute counsel and for a retaining and charging lien under New York law. This court would maintain supplemental jurisdiction over the lien claims under 28 U.S.C. § 1367(a)

DR 2-110 C (1) states in relevant part that "(a) lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if...(t)he client...(b)y other conduct renders it unreasonably difficult for the lawyer to carry out employment effectively, or...(d)eliberately disregards an agreement or obligation to the lawyer as to expenses or fees."

My associate attorney, Joseph C. Tristano, Esq., and I have spoken to Mr. Stair on numerous occasions, requesting payment of long overdue legal fees. No such payments have been received from Mr. Stair despite Mr. Stair's agreed upon obligation to pay such fees.

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Moreover, since this litigation is in the early stages (defendants have still not served their amended answer), my client will not be prejudiced by my firm's withdrawal as counsel.

I respectfully request permission to make a motion for my firm's withdrawal as counsel and for a charging and retaining lien on the file, with all exhibits which contain privileged information to be submitted *in camera*.

Additionally, I request that the Joint Pre-trial order scheduled to be filed on November 2, 2009 be adjourned until such time as the motion regarding my firm's withdrawal is decided and Mr. Stair has been afforded a reasonable time to retain new counsel.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MBB', followed by a long horizontal flourish.

MARSHALL B. BELLOVIN (MB 5508)  
MBB/ob

cc: Mr. Theodore Stair (by e-mail/pdf)  
James Kennedy, Esq. (by e-mail/pdf)  
Joseph C. Tristano, Esq.